



Specialty Independent Review Organization, Inc.

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August 9, 2005

TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M2-05-2114-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Doctor of Osteopathy with a specialty in Orthopedics. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

This 30-year-old male was injured on \_\_\_\_\_. He was changing a cubicle panel when the desk surface started to fall and he reached to catch his computer and had immediate onset of low back and leg pain. The patient was treated conservatively without improvement and an MRI revealed a herniated disc at L5-S1. The patient was treated with three epidural injections without relief. The patient also received medication and physical therapy with no improvement. Patient had an L5-S1 laminectomy, discectomy, and decompression of the S1 nerve root on 06/10/2002.

Since the surgery the patient had substantial relief of the right leg pain, but has developed progression of the low back pain. The pain is extenuated with bending, lifting, and twisting. The pain radiates to the buttocks and the patient has increasing stiffness in his low back. The patient has continued to be treated with pain management over the past 3 years and has progressively worsened with intractable pain.

Physical Examination reveals: Tenderness in the lumbar spine, forward bending is uncomfortable, motor weakness of the S1 myotome and decreased sensation of the right S1 nerve.

CT scan of 02/07/2002 revealed a tear of the annulus of L4-5 and 5-S1. The MRI of 10/13/2003 revealed the right laminectomy and a right PNP at L5-S1. The discogram of 10/30/2003 revealed abnormal disc at L5-S1 with concordant pain. The X-rays of 05/31/2005 reveals narrowing of the disc space at L5-S1.

#### Records Reviewed:

HDi Letters: 06-15 and 06-22/2005.

#### Records from Doctors/Facility:

J Keeper MD Reports - 12/01/2001 to 07/11/2005.

#### Records from Carrier:

P Blackshear Lawyer, Letter – 08/03/2005.

River Oaks MRI – 10/14/2003.

J Keeper MD, Discogram – 10/30/2003.

3 ESIs – 12/21, 12/28/2001, 01/04/2002.

CT Scan – 02/07/2002.

H Colter MD Report – 07/25/2002.

M Pastirik RN Report – 09/10/2004.

K Rosenzweig MD Report – 09/03/2004.

Medi+ Letter – 07/28/2004.

S Robinson Lawyer, Letter – 07/25/2004.

R Francis MD Report – 11/25/2003, 05/31/2004.

### REQUESTED SERVICE

The item in dispute is the prospective medical necessity of a lumbar artificial disc replacement at L5-S1.

### DECISION

The reviewer disagrees with the previous adverse determination.

### BASIS FOR THE DECISION

The artificial lumbar disc replacement was approved by the FDA on October 26, 2004. The indications for surgery are the same as for a lumbar fusion. These include: Back pain for more than six months, clear imaging evidence of degenerated disc disease, and failure of conservative care. This patient has had a prior lumbar laminectomy and has developed a degenerated disc at L5-S1. The conservative care consisting of physical therapy, medications, and injections have failed. This patient fits the criteria for an artificial disc replacement.

Shuff & An: Artificial Disc Replacement: The new solution for discogenic low back pain?  
American Journal of Orthopedics January 2005.

Griffith SL, Shelokov AP, Buttner-Janz K. A multicenter retrospective study of the clinical results of the LINK SB Charite intervertebral prosthesis. The initial European experience. Spine 1994; 19: 1842-1849.

Guyer, RD, McAfee PC, Hochschuler SH, et al. Prospective randomized study of the Charite artificial disc: data from two investigational centers. Spine J 2004; 4: S252-259.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

### **YOUR RIGHT TO REQUEST A HEARING**

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

In the case of prospective ***spinal surgery*** decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within **10** days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other ***prospective (preauthorization) medical necessity*** disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker's Compensation Commission, P.O. Box 17787, Austin, TX 78744. The fax number is 512-804-4011. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(u)(2).

Sincerely,

Wendy Perelli, CEO

**I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 9<sup>th</sup> day of August 2005**

**Signature of Specialty IRO Representative:**

**Name of Specialty IRO Representative:      Wendy Perelli**